

Staff Summary Report



Council Meeting Date: 12/4/03

Agenda Item Number: _____

SUBJECT: Request approval of Resolution No. 2003.74 authorizing the acquisition and/or condemnation of property necessary for the development of the Rio Salado Marketplace Project within the University/Hayden Butte Redevelopment Area 5.

DOCUMENT NAME: 20031204dsnc01 **RIO SALADO MASTER PLAN (0112-07-03)**
Resolution No. 2003.74

SUPPORTING DOCS: None

COMMENTS: N/A

PREPARED BY: Neil Calfee, Principal Planner (350-2912)

REVIEWED BY: Melanie Hobden, Development Services Manager (350-8069)

LEGAL REVIEW BY: Marlene Pontrelli, City Attorney (350-8120)

FISCAL NOTE: All costs associated with the property acquisition and any potential condemnation action shall be the sole responsibility of the Developer per the approved Development and Disposition Agreement.

RECOMMENDATION: **Approval of Resolution 2003.74 as presented.**

ADDITIONAL INFO: On September 25, 2003 the City Council approved a Development and Disposition Agreement with Miravista Holdings for a multi-phase brownfield redevelopment project within the University/Hayden Butte Redevelopment Area 5. The project area is considered a brownfield because of the wide spread presence of surface contaminants and subsurface landfills. Clean-up and stabilization of soil conditions on this site are neither practically nor economically feasible on an individual property basis. Accordingly, only through acquisition and assemblage of the individual parcels can a comprehensive and effective clean-up be achieved in this area.

Resolution 2003.74 authorizes City Staff to work with Miravista Holdings towards the acquisition and assemblage of all of the property within the project area, either through negotiated purchase or, if necessary condemnation. City Staff will make every effort to reach negotiated settlements with property owners within the area, and oversee a comprehensive and fair relocation program for owners and their tenants. The use of eminent domain is considered as a tool of last resort within this process, and will only be used when all other means of negotiation or settlement have been exhausted.

RESOLUTION NO. 2003.74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE AUTHORIZING THE ACQUISITION, INCLUDING BY EMINENT DOMAIN, OF ALL PROPERTY NECESSARY FOR THE COMPLETION OF THE UNIVERSITY/HAYDEN BUTTE REDEVELOPMENT AREA 5 PROJECT.

WHEREAS, on September 13, 2001 the Tempe City Council approved Resolution 2001.44 creating the McClintock/Rio Salado Parkway Redevelopment Area and pursuant to Resolution No. 2002.51 dated January 9, 2002, the City amended the University Hayden Butte Redevelopment Area to include the Parkway Redevelopment Area as "Area 5" of the University Hayden Butte Redevelopment Area; and

WHEREAS, the Mayor and Council of the City of Tempe approved the selection of Miravista Holdings LLC as prime developers for University/Hayden Butte Area 5; and

WHEREAS, on November 12, 2002 a redevelopment plan was recommended for approval by the City's Planning and Zoning Commission and was approved by the Tempe City Council on January 9, 2003 to provide a planning guideline for redevelopment and other activities in Redevelopment Area 5; and

WHEREAS, on September 25, 2003 the City Council approved a Development Agreement with Miravista Holdings. The agreement contemplates that the City of Tempe may acquire property necessary for development within the area outlined in Exhibit "A"; and

WHEREAS, acquisition of fee title and any and all other interests in that certain real property described in Exhibit "A" attached hereto and made a part hereof, together with any appurtenances thereto, is necessary and essential to the public interest of the City of Tempe and facilitates public uses of the property, including, without limitation, (1) identification and remediation of soil contaminants in the City of Tempe's only Brownfield area which the EPA.....?? , (2) elimination of risks to public health and safety attributable to the existing contamination on and within the subject property, (3) mitigation of the additional environmental risks and hazards associated with ongoing uses of the property, and (4) prevention of further environmental degradation and blight or slum conditions of the area, all in furtherance of the City's effort to reclaim and redevelop the area in a manner consistent with the General Plan and the Redevelopment Plan of the City of Tempe.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, as follows :

Section 1. Based upon the express findings contained within this Resolution, it is deemed essential as a matter of public use and necessity that the real property described in Exhibit A is necessary for development of the University/Hayden Butte Redevelopment Area 5

Project . Further, it is deemed essential as a matter of public use and necessity that development of the University Hayden Butte Redevelopment Area 5 Project proceed in a timely manner.

Section 2. That staff, including the City Attorney's Office, is directed to proceed with the acquisition, including by eminent domain, of all property necessary for the development of the University Hayden Butte Redevelopment Area 5 Project.

Section 3. That property affected by this Resolution is delineated on a map attached hereto as Exhibit "A" and represents the boundaries of the University Hayden Butte Redevelopment Area 5 Project.

Section 4. That this resolution is found to be in conformance with the goals and requirements of, the Slum Clearance and Redevelopment Act of the State of Arizona, A.R.S. §§36-1471, et. seq. and the property within Exhibit A is slum or blighted and redevelopment of the area is necessary for the public health, safety and welfare of the residents of the City of Tempe pursuant to A.R.S. section 36-1473.

Section 5. Shall the need arise the Mayor is hereby authorized to execute any documents that may be necessary to carry out the purpose of this resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2003.

ATTEST:

Mayor

City Clerk

APPROVED AS TO FORM:

City Attorney